

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHRISTOPHER T. WHITTON,

Case No. 2:15-cv-01399-APG-PAL

Plaintiff,

v.

ORDER

OFFICER MORTIMER, et al.,

Defendants.

This matter is before the Court on Plaintiff Christopher T. Whitton's failure to comply with the Court's Order (Dkt. #6). This matter is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

Mr. Whitton is a pretrial detainee in the custody of the Clark County Detention Center ("CCSD"). He is proceeding in this action *pro se* and he filed an Application to Proceed *In Forma Pauperis* (Dkt. #1) and Complaint (Dkt. #1-1) on July 22, 2015. Pursuant to 28 U.S.C. § 1915 and LSR 1-1, any person who is unable to prepay the fees in a civil case may apply to the Court for authority to proceed *in forma pauperis* ("IFP"), meaning without prepaying the full \$350.00 filing fee. However, Mr. Whitton's IFP Application did not include a copy of his inmate trust account statement; thus, the Court denied the application without prejudice. *See* Order (Dkt. #3).

On September 8, 2015, Mr. Whitton filed an amended Application to Proceed *In Forma Pauperis* (Dkt. #5), which included the required inmate trust account statement. The Court therefore issued an Order granting his request to proceed IFP and the instructing Mr. Whitton that his Complaint would be screened pursuant to 28 U.S.C. § 1915A once he paid an initial partial filing fee of \$ 22.47. *See* Order (Dkt. #6). The Court allowed him 30 days to have the designated fee sent to the Clerk of the Court, on or before November 9, 2015. *Id.*

1 To date, Mr. Whitton has not sent the designated fee to the Clerk's Office. However, he
 2 submitted a letter to the Court stating that his inmate trust account is currently overdrawn and he
 3 does not know if or when he may receive funds to pay the \$22.47 initial partial filing fee. *See*
 4 Letter (Dkt. #8). Mr. Whitton states he has no opposition to satisfying the filing fee once he
 5 receives funds, but asks the Court to consider his case now because he is unable to pay the initial
 6 partial filing fee at this time. *Id.* The letter attached a more current copy of his inmate trust
 7 account statement, but did not contain a certificate signed by an authorized officer of CCDC
 8 certifying that the account information was accurate. 28 U.S.C. § 1915 requires the Court to
 9 only consider certified financial information.¹

10 The Court will construe Mr. Whitton's Letter as a request for additional time to submit a
 11 new financial certificate signed by a CCDC officer along with a current inmate trust account
 12 statement. If the financial certificate and account statement demonstrate that Mr. Whitton is
 13 unable to pay the initial partial filing fee, the Court will not require him to pay an initial partial
 14 filing fee and he will pay the full \$350 filing fee through monthly instalments from his inmate
 15 trust account.

16 Accordingly,

17 **IT IS ORDERED:**

- 18 1. The Clerk of the Court shall mail Plaintiff Christopher T. Whitton a blank financial
 19 certificate for incarcerated litigants.
- 20 2. On or before **April 15, 2016**, Plaintiff Christopher T. Whitton shall submit (1) a new
 21 financial certificate financial certificate signed and executed by a CCDC officer, and
 22 (2) a current statement of his inmate trust account.

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 25 ¹ 28 U.S.C. § 1915(a)(2) states:

26 A prisoner seeking to bring a civil action or appeal a judgment in a civil action or
 27 proceeding without prepayment of fees or security therefor ... shall submit a certified
 28 copy of the trust fund account statement (or institutional equivalent) for the prisoner for
 the 6-month period immediately preceding the filing of the complaint or notice of appeal,
 obtained from the appropriate official of each prison at which the prisoner is or was
 confined.

3. Plaintiff's failure to comply with this Order by submitting a new financial certificate and account statement before the **April 15, 2016** deadline will result in a recommendation to the District Judge that this case be dismissed.


PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE